

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION)
OF ULTIMATE ENERGY ADVISORS, LLC)
FOR A CERTIFICATE TO PROVIDE) PSC DOCKET NO. 13-18
ELECTRIC SUPPLY SERVICES WITHIN)
THE STATE OF DELAWARE (FILED)
JANUARY 14, 2013)

ORDER NO. 8326

ELECTRIC SUPPLIER CERTIFICATE

This 9th day of April, 2013, the Commission determines and orders the following:

WHEREAS, on January 14, 2013, Ultimate Energy Advisors, LLC ("Ultimate" or the "Company") filed an application seeking certification as a retail electric supplier in order to broker the sale or purchase of Electric Supply Service¹ (the "Application"). See 26 *Del. C.* §§1001(3) and 1012. Under the Electric Utilities Restructuring Act of 1999 (the "Act"),² "electric suppliers," which include Brokers, are not "public utilities," and, accordingly, the resulting sales of electric supply service to retail customers are not subject to traditional forms of rate regulation. See 26 *Del. C.* §§102(2) and 202(f);³ and

WHEREAS, in its Application, the Company states that it is a Broker that will utilize appropriate energy procurement strategies to meet the needs of residential, commercial, and industrial customers in Delaware. During Staff's review of the Company's Application, Staff

¹ Unless otherwise noted, capitalized terms shall have the meanings ascribed to them in 26 *Del. C.* §1001 and 26 *Del. Admin. C.* §3001.

² See 26 *Del. C.* Ch. 10.

³ Under the Act, a "broker" means a person or entity that acts as an agent or intermediary in the sale or purchase of, but that does not take title to, electricity for sale to retail electric customers. 26 *Del. C.* §1001(3). Although a broker never takes "title" to the electric supply product, the Act deems a broker an "electric supplier." See 26 *Del. C.* §§1001(3) and (14)(c).

advised the Company of the requirement for a toll-free number of a customer service department as set forth in the Commission's Rules for Certification and Regulations of Electric Suppliers, 26 *Del. Admin. C.* §3001-2.1.1.8.4 (the "Supplier Rules"). The Company has requested a waiver of this requirement pursuant to § 2.5 of the Supplier Rules.⁴ Staff recommends that the Commission grant the waiver requested by Ultimate because the Company will not have contracts for Electric Supply Service with Retail Electric Customers; and

WHEREAS, Staff reports that the Company's Application otherwise fulfills all of the remaining requirements for an Electric Supplier Certificate to act as a Broker as set forth in the Supplier Rules. In particular, Staff reports that the Company appears to possess the financial, operational, managerial, and technical capabilities to operate as a Broker of Electric Supply Service. Therefore, Staff recommends that the Commission issue to Ultimate an Electric Supplier Certificate that authorizes it to broker sales and customer purchases of Electric Supply Services in the State of Delaware, consistent with the scheme adopted by the Act and the Supplier Rules;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That Ultimate Energy Advisors, LLC (the "Company") is hereby granted, under 26 *Del. C.* §1012(a) and 26 *Del. Admin. C.* §3001, a certificate to do business and operate as an "Electric Supplier" (Broker) within the State of Delaware. Under this Electric Supplier

⁴ Section 2.5 of the Supplier Rules provides as follows: "Upon the request of any Applicant, the Commission may, for good cause, waive any of the requirements of these Rules that are not required by statute. The waiver may not be inconsistent with the purpose of these Rules or Chapter X of Title 26 of *Del. C.*"

Certificate, the Company is authorized to broker Electric Supply Service within this State in accordance with 26 *Del. C. Ch.* 10.

2. That the Company shall at all times provide its brokerage of Electric Supply Service in accordance with the requirements imposed by 26 *Del. C. Ch.* 10 and 26 *Del. Admin. C.* §3001 as presently adopted, or as may be hereafter amended or supplemented. The Company is hereby notified that a violation of any applicable order, statute, regulation, rule, or other controlling authority may be enforced by the sanctions permitted by 26 *Del. C.* §§1012(a) and 1019 and 26 *Del. Admin. C.* §3001-10.2.

3. That the Company shall file, pursuant to the provisions of 26 *Del. C.* §1012(c)(2) and 26 *Del. Admin. C.* §§3001-3.9 and 3.10, such reports and pay such fees and assessments as may be required or imposed by 26 *Del. C.* §§114 and 115.

4. That the Company consents to the jurisdiction of the courts of the State of Delaware for all acts or omissions related to its offering of Electric Supply Services in this State.

5. That the Company is hereby placed on notice that the costs of the proceedings will be charged to it under the provisions of 26 *Del. C.* §114(b)(1).

6. The requirement for a toll-free number as set forth in 26 *Del. Admin. C.* §3001-2.1.1.8.4 is waived pursuant to 26 *Del. Admin. C.* §3001-2.5 because this requirement is not required by statute and is not inconsistent with the purpose of the Commission's Rules or Chapter X of Title 26 of the Delaware Code.

7. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Dallas Winslow_____
Chair

/s/ Joann T. Conaway_____
Commissioner

/s/ Jeffry J. Clark_____
Commissioner

/s/ Jaymes Lester_____
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley_____
Secretary